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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,402	02/17/2004	Kenan J. Clougherty	031599/270363	1317

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EXAMINER

MCDOWELL, SUZANNE E

ART UNIT PAPER NUMBER

1732

DATE MAILED: 01/25/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/780,402	CLOUGHERTY, KENAN J.	
	Examiner	Art Unit	
	Suzanne E. McDowell	1732	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 3-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/17/04; 7/18/05; 8/29/05</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 3-12 in the reply filed on 10/14/05 is acknowledged. The traversal is on the ground(s) that the apparatus as claimed can only be used by disposing a tubular parison in the cavity and inflating the parison, i.e., the instantly claimed method. This is not found persuasive because the apparatus as claimed can be used to blow mold an injection molded parison formed prior to the blow molding cycle. The language in claim 1 "for receiving flowable thermoplastic material during a blow cycle" is functional language only, and does not impart structural limitations to the apparatus.

The requirement is still deemed proper and is therefore made FINAL.

2. Claims 1 and 2 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected invention, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 10/14/05.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first and second paragraphs of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 3-12 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for "providing a flowable thermoplastic member in a generally tubular configuration" in claim 3, does not reasonably provide enablement for "providing a flowable thermoplastic member in a generally tubular configuration closed at one end". The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to practice the invention commensurate in scope with these claims. The specification and drawings teach providing a flowable thermoplastic member

in a tubular configuration that is open on both ends (Fig. 3), and that is pinched closed by the mold when the mold halves are brought together (paragraph 23).

4. Claims 3-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 3, “providing a flowable thermoplastic member in a generally tubular configuration closed at one end” is confusing. The specification and drawings teach providing a flowable thermoplastic member in a tubular configuration that is open on both ends (Fig. 3), and that is pinched closed by the mold when the mold halves are brought together (paragraph 23). It is not taught that the member is provided with a closed end, and extruding a parison into a blow mold provides an open-ended parison, so the language “closed at one end” renders the claims confusing.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 3-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Beck et al. (US Patent 6,126,886). Beck et al. discloses the claimed limitations as follows: forming a container (1) with a wide mouth finish with a radially extending flange instead of threads (Fig. 7 and column 5, lines 1-12) by selectively controlling the temperature of the mold cavity in the portion of the mold where threads, i.e., flange, are to be formed, causing the preform to become less viscous and allow material flow in this area to form the threads, i.e., flange (column 4, lines 11-27). Regarding claim 4, Beck et al. depicts a typical mold (11) with two mold halves that enclose the member (5) in a cavity (Fig. 5). Regarding claim 5, it is inherent in Beck et al. that the mold (11) halves must be opened to allow removal of the finished product.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beck et al. (US Patent 6,126,886) in view of Iizuka et al. (US Patent 4,822,543). Beck et al. teaches the claimed method as follows: forming a container (1) with a wide mouth finish with a radially extending flange instead of threads (Fig. 7 and column 5, lines 1-12) by selectively controlling the temperature of the mold cavity in the portion of the mold where threads, i.e., flange, are to be formed, causing the preform to become less viscous and allow material flow in this area to form the threads, i.e., flange (column 4, lines 11-27). Regarding claims 7-12, Beck et al. does not teach that a cooling system is operated in the thread- or flange-forming region of the mold. Iizuka et al. teaches a method of forming a container by blow molding wherein patterns on the sidewalls of the container are formed by inserts (33) in the mold (30) walls, the mold walls contain heating means (35) and the inserts (33) contain internal cooling means (36) (Fig. 2). It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the method taught by Beck et al. by using the cooling means taught by Iizuka et al. in order to form the threads or flange and then cool them so that the container can be removed from the mold without distorting the threads or flange, and so that the container can be removed from the mold sooner than if there were no cooling means employed. The motivation to use the teachings of Iizuka et al. to modify Beck et al. is that both are in the same field of endeavor, that of blow molding a container.

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Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Yoshikawa et al. (US Patent 3,880,973); Cho et al. (US Statutory Invention Registration H671); and Moore (US Patent 5,253,996).

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Suzanne E. McDowell whose telephone number is (571) 272-1205. The examiner can normally be reached on 6:30 -10:30am M, 6:30am-7pm T & F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael P. Colaianni can be reached on (571) 272-1196. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SEM
January 23, 2006



SUZANNE E. MCDOWELL
PRIMARY EXAMINER

1/23/06